

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

_____)	MDL No. 1456
IN RE PHARMACEUTICAL INDUSTRY)	Master File No. 01-12257-PBS
AVERAGE WHOLESALE PRICE LITIGATION)	
_____)	Judge Patti B. Saris
)	
THIS DOCUMENT RELATES TO:)	
State of California, <i>ex rel.</i> Ven-A-Care v.)	
Abbott Laboratories, <i>et al.</i>)	
CASE #: 1:03-cv-11226-PBS)	
_____)	

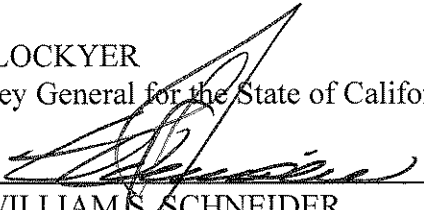
STATE OF CALIFORNIA'S AND RELATOR'S STATUS REPORT NOVEMBER 1, 2004

The undersigned counsel, on behalf of plaintiffs STATE OF CALIFORNIA ("CALIFORNIA") and Relator, VEN-A-CARE OF THE FLORIDA KEYS, INC. ("VEN-A-CARE" or "RELATOR"), hereby submit the attached Status Report to the Court in accordance with the Court's June 17, 2004 Procedural Order.

Respectfully submitted,

BILL LOCKYER
Attorney General for the State of California

Dated: November 1, 2004.

By: 
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Dated: November 1, 2004.

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Ven-A-Care of the Florida Keys, Inc.**

MDL 1456 Status Report
State of California, ex rel. Ven-A-Care v. Abbott Laboratories, et al.
Case No.: 1:03-cv-11226-PBS

Motion to Remand Case to State Court:

Notice of withdrawal of such motion filed 9/29/04.

Motion to Dismiss Medicaid Rebate Fraud Claims Without Prejudice:

Notice of withdrawal of such motion filed 9/29/04.

Complaint-in-Intervention:

Plaintiffs intend to file an amended Complaint-in-Intervention, pursuant to the Federal Rules of Civil Procedure, which will supersede the original Complaint-in-Intervention filed against defendants ABBOTT LABORATORIES, INC., WYETH INC., and WYETH PHARMACEUTICALS, INC. in California State Court on January 7, 2003.

Anticipated Filings:

The Attorney General of California will file additional motions, under seal, as are necessary to fully and effectively prosecute this case under the California False Claims Act (Cal. Gov't. Code §§ 12650, *et seq.*). In addition, plaintiffs will request a Status Conference and the entry of a Case Management Order by a motion to be filed soon.

Tutorial:

The Court has granted the Fast Track Defendants' request that the parties present a tutorial on drug pricing and reimbursement issues. Counsel for the class plaintiffs, Messrs. Sobol and Berman, have advised that the scope of the upcoming tutorial, scheduled for December 7, 2004, is said to be limited to information uniquely relating to the class certification issues. Defendant

ABBOTT LABORATORIES, INC.'s Response (dated 10/8/04) to California's 10/1/04 Status Report similarly took the position that the upcoming tutorial will be limited to the class certification issues, and also asserted that California's tutorial may be premature at this time; defendants WYETH, INC. and WYETH PHARMACEUTICALS, INC. joined in such response.

California is not one of the plaintiffs involved in the class action lawsuit, and has no interest in the class certification issue. However, the issues contemplated by the tutorial will necessarily overlap the issues involved in the California and Ven-A-Care case and may adversely affect the interests of California and Ven-A-Care.

California and Ven-A-Care contend it is important that information relevant to California's pending action also be presented to the Court. California and Ven-A-Care further submit that a tutorial on issues relating to the reporting and publishing of Average Wholesale Prices (AWPs), Wholesaler Acquisition Costs (WACs) and Direct Prices, as well as the use of such reports in the determination of Medicaid Reimbursement, would be helpful to the Court and would aid in focusing the issues in the California case.

For the reasons stated above, California and Ven-A-Care request to participate in the tutorial process, and are ready, willing, and able to prepare their own tutorial submission, in accordance with the relevant provisions of Case Management Order No. 12.

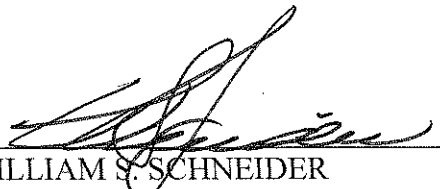
Therefore, California and Ven-A-Care will be filing a motion respectfully requesting the Court's clarification as to whether the Court will permit California and Ven-A-Care to present their own tutorial at the scheduled tutorial hearing and to participate at such hearing. If California and Ven-A-Care are not allowed to participate in the currently scheduled tutorial, then California and Ven-A-Care will be respectfully requesting the Court's clarification as to whether the Court

will permit a tutorial in the California case at a later date.

CERTIFICATE OF SERVICE

I, William S. Schneider, hereby certify that on November 1, 2004, I caused a true and correct copy of the foregoing, **STATE OF CALIFORNIA'S AND RELATOR'S STATUS REPORT**, to be served on all counsel of record via electronic service pursuant to Paragraph 11 of Case Management Order No. 2, by sending a copy to Verilaw Technologies for posting and notification to all parties.

Dated: November 1, 2004.



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